

## 2012 Kansas Statutes

### **39-936. Statement on admission; qualified personnel; education and training of unlicensed personnel; examination and fees; state registry established; refresher course required; supplier of medication; limitations on involuntary transfer or discharge of resident; effect of reliance upon spiritual means or prayer for healing by resident.**

(a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which has been granted an exception by the secretary of aging upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary of health and environment or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the secretary of health and environment shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary of health and environment. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the secretary of health and environment under subsection (c)(2). Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents and who do not meet the definition of paid nutrition assistance [assistant] under paragraph (a)(27) of K.S.A. 39-923, and amendments thereto, after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary of health and environment shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the secretary of health and environment, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the secretary of health and environment to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

(3) The secretary of health and environment shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection (c). The fee shall be fixed by rules and regulations of the secretary of health and environment. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(4) The secretary of health and environment shall establish a state registry containing information about unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) No adult care home shall use an individual as an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents to complete an approved refresher course. The secretary of health and environment shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as an unlicensed employee of an adult care home in another state may be so employed in this state without an examination if the secretary of health and environment determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under

the laws of this state and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

**History:** L. 1961, ch. 231, § 14; L. 1972, ch. 171, § 11; L. 1977, ch. 152, § 2; L. 1978, ch. 162, § 14; L. 1979, ch. 131, §1; L. 1983, ch. 148, § 1; L. 1983, ch. 286, § 10; L. 1989, ch. 126, § 3; L. 1992, ch. 250, § 1; L. 1994, ch. 3, § 1; L. 2001, ch. 5, § 111; L. 2003, ch. 149, § 7; L. 2004, ch. 146, § 4; L. 2012, ch. 91, § 19; July 1.